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CFPB Rules Establish Strong Protections for Homeowners Facing Foreclosure

New Rules Prevent Servicer Surprises and Runarounds for Mortgage Borrowers

WASHINGTON, D.C. — Today the Consumer Financial Protection Bureau (CFPB) issued rules to establish new, strong protections for struggling homeowners facing foreclosure. The rules also protect mortgage borrowers from costly surprises and runarounds by their servicers.

"For many borrowers, dealing with mortgage servicers has meant unwelcome surprises and constantly getting the runaround. In too many cases, it has led to unnecessary foreclosures," said CFPB Director Richard Cordray. "Our rules ensure fair treatment for all borrowers and establish strong protections for those struggling to save their homes."

Mortgage servicers are responsible for collecting payments from mortgage borrowers on behalf of loan owners. They also typically handle customer service, escrow accounts, collections, loan modifications, and foreclosures. Generally, borrowers have no say in choosing their mortgage servicers. Lenders frequently sell loans to investors after the mortgage deal is signed, and the investors, not the consumers, often choose the servicers.

Even before the financial crisis, the mortgage servicing industry at times experienced problems with bad practices and sloppy recordkeeping. As millions of borrowers fell behind on their loans as a result of the crisis, many servicers were unable to provide the level of service necessary to meet homeowners' needs. Many simply had not made the investments in resources and infrastructure to service large numbers of delinquent loans. Consumers complained about getting the runaround and being hit with costly surprises. Now, with millions of homeowners in distress, many borrowers are continuing to experience serious problems seeking loan modifications or other alternatives to avoid foreclosure.

Strong Protections for Struggling Borrowers

The CFPB's mortgage servicing rules ensure that borrowers in trouble get a fair process to avoid foreclosure. Borrowers shouldn't have to worry about mortgage servicers cutting corners or losing applications for relief. They should be told about their options and given time to apply and be considered for loan modifications and other alternatives. Most of all, they shouldn't be surprised by the start of a foreclosure proceeding until they have had time to explore all available options. If they act diligently to seek alternatives, they should not face a foreclosure sale before their applications have been evaluated. The new protections for struggling borrowers include:

- **Restricted Dual-Tracking:** Under the CFPB's new rules, dual-tracking – when the servicer moves forward with foreclosure while simultaneously working with the borrower to avoid foreclosure – is restricted. Servicers cannot start a

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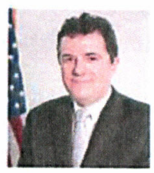

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foreclosure proceeding if a borrower has already submitted a complete application for a loan modification or other alternative to foreclosure, and that application is still pending review. To give borrowers reasonable time to submit such applications, servicers cannot make the first notice or filing required for the foreclosure process until a mortgage loan account is more than 120 days delinquent.

- **Notification of Foreclosure Alternatives:** Servicers must let borrowers know about their "loss mitigation options" to retain their home after borrowers have missed two consecutive payments. They must provide them a written notice that includes examples of options that might be available to them as alternatives to foreclosure and instructions for how to obtain more information.
- **Direct and Ongoing Access to Servicing Personnel:** Servicers must have policies and procedures in place to provide delinquent borrowers with direct, easy, ongoing access to employees responsible for helping them. These personnel are responsible for alerting borrowers to any missing information on their applications, telling borrowers about the status of any loss mitigation application, and making sure documents get to the right servicing personnel for processing.
- **Fair Review Process:** The servicer must consider all foreclosure alternatives available from the mortgage owners or investors – those with decision-making power over the loan – to help the borrower retain the home. These options can range from deferment of payments to loan modifications. And servicers can no longer steer borrowers to those options that are most financially favorable for the servicer.
- **No Foreclosure Sale Until All Other Alternatives Considered:** Servicers must consider and respond to a borrower's application for a loan modification if it arrives at least 37 days before a scheduled foreclosure sale. If the servicer offers an alternative to foreclosure, they must give the borrower time to accept the offer before moving for foreclosure judgment or conducting a foreclosure sale. Servicers cannot foreclose on a property if the borrower and servicer have come to a loss mitigation agreement, unless the borrower fails to perform under that agreement.

No Surprises

Mortgage borrowers should not be surprised about where their money is going, when interest rates adjust, or when they get charged fees. The CFPB's rules help every borrower, whether struggling or not, by bringing greater transparency to the market with clear and timely information about mortgages. These rules include:

- **Clear Monthly Mortgage Statements:** Servicers must provide regular statements which include: the amount and due date of the next payment; a breakdown of payments by principal, interest, fees, and escrow; and recent transaction activity.
- **Early Warning Before Interest Rate Adjusts:** Servicers must provide a disclosure before the first time the interest rate adjusts for most adjustable-rate mortgages. And they must provide disclosures before interest rate adjustments that result in a different payment amount.
- **Options for Avoiding Costly "Force-Placed" Insurance:** Servicers typically must make sure borrowers maintain property insurance and if the borrower does not, the servicer generally has the right to purchase it. The CFPB's rules ensure consumers will not be surprised by this insurance, which often can be more expensive than the insurance borrowers buy on their own. The rules say servicers must provide more transparency in this process, including advance notice and pricing information before charging consumers. Servicers must also have a reasonable basis for concluding that a borrower lacks such insurance before purchasing a new policy. If servicers buy the insurance but receive evidence that it was not needed, they must terminate it within fifteen days and refund the premiums.

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No Runarounds

When mortgage servicers make mistakes, records get lost, payments are processed too slowly, or servicer personnel do not have the latest information about a consumer's account, the consumer suffers the consequences. The CFPB's rules will require common -sense policies and procedures for handling consumer accounts and preventing runarounds. These rules include:

- **Payments Promptly Credited:** Servicers must credit a consumer's account the date a payment is received. If the servicer places partial payments in a "suspense account," once the amount in such an account equals a full payment, the servicer must credit it to the borrower's account.
- **Prompt Response to Requests for Payoff Balances:** Servicers must generally provide a response to consumer requests for the payoff balances of their mortgage loans within seven business days of receiving a written request.
- **Errors Corrected and Information Provided Quickly:** Servicers must generally acknowledge receipt of written notices from consumers regarding certain errors or requesting information about their mortgage loans. Generally, within 30 days, the servicer must: correct the error and provide the information requested; conduct a reasonable investigation and inform the borrower why the error did not occur; or inform the borrower that the information requested is unavailable.
- **Maintain Accurate and Accessible Documents and Information:** Servicers must store borrower information in a way that allows it to be easily accessible. Servicers must also have policies and procedures in place to ensure that they can provide timely and accurate information to borrowers, investors, and in any foreclosure proceeding, the courts.

Today's rules originate from the Dodd-Frank Wall Street Reform and Consumer Protection Act, which directed the CFPB to implement reforms for the mortgage servicing industry. The CFPB announced in August that it was considering a number of proposals to implement the Dodd-Frank Act requirements and address systemic problems in the industry. Today's rules are a result of the public's feedback on those proposals.

Recognizing that small servicers approach servicing quite differently, the CFPB made certain exemptions to today's mortgage servicing rules for small servicers that service 5,000 or fewer mortgage loans that they or an affiliate either own or originated. These servicers are mostly community banks and credit unions servicing mortgages for their customers or members.

The mortgage servicing rules take effect in January 2014. The CFPB plans to work with mortgage servicers to ensure an easy transition to implementation. To help with compliance, the CFPB will, among other things, be issuing plain language implementation guides and, in coordination with other agencies, releasing materials that help servicers understand supervisory expectations. For many of the new rules that require specific notifications, the rule contains model and sample forms. As the effective date approaches, the CFPB will also give consumers information about their new rights under these rules.

The mortgage servicing rules can be found Thursday at:www.consumerfinance.gov/regulations

A summary of the rules is available at:
http://files.consumerfinance.gov/f/201301_cfpb_servicing-rules_summary.pdf

A factsheet about the rules can be found at:
http://files.consumerfinance.gov/f/201301_cfpb_servicing-fact-sheet.pdf

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